

IC 30-4-2.1

Chapter 2.1. Rules for Interpretation of Trusts

IC 30-4-2.1-1

Construction

Sec. 1. In the absence of a contrary intent appearing in the trust, a trust shall be construed in accordance with the rules in this chapter.
As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-2

Adopted children

Sec. 2. (a) Except as provided in subsection (b), in construing a trust naming as beneficiary a person described by relationship to the settlor or to another, a person adopted before:

- (1) the person is twenty-one (21) years of age; and
- (2) the death of the settlor;

shall be considered the child of the adopting parent or parents and not the child of the natural or previous adopting parents.

(b) If a natural parent or previous adopting parent marries the adopting parent before the settlor's death, the adopted person shall also be considered the child of the natural or previous adopting parent.

(c) A person adopted by the settlor after the person becomes twenty-one (21) years of age shall be considered the child of the settlor. However, no other person is entitled to establish the relationship to the settlor through the child.

As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-3

No contest provision void

Sec. 3. A provision in a trust that provides, or has the effect of providing, that a beneficiary forfeits a benefit from the trust if the beneficiary contests the trust is void.

As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-4

Children born after trust's creation

Sec. 4. (a) Except as provided in subsection (b) and section 5 of this chapter, when a settlor fails to provide in the settlor's trust for a child who is:

- (1) born or adopted after the making of the settlor's trust; and
- (2) born before or after the settlor's death;

the child is entitled to receive a share in the trust assets. The child's share of the trust assets shall be determined by ascertaining what the child's intestate share would have been under IC 29-1-2-1 if the settlor had died intestate. The child is entitled to receive a share of the trust assets equivalent in value to the intestacy share determined under IC 29-1-2-1.

(b) Subsection (a) does not apply to a child of the settlor if:

- (1) it appears from the trust that the settlor intentionally failed

to provide in the settlor's trust for the child; or

(2) when the trust was executed:

(A) the settlor had at least one (1) child known to the settlor to be living; and

(B) the settlor devised substantially all of the settlor's estate to the settlor's surviving spouse.

As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-5

Mistaken belief that settlor's child deceased

Sec. 5. (a) Except as provided in subsection (b), if, at the time of the making of the trust, the settlor:

(1) believes a child of the settlor to be dead; and

(2) fails to provide for the child in the settlor's trust;

the child is entitled to receive a share in the trust assets. The child's share of the trust assets shall be determined by ascertaining what the child's intestate share would have been under IC 29-1-2-1 if the settlor had died intestate. The child is entitled to receive a share of the trust assets equivalent in value to the intestacy share determined under IC 29-1-2-1.

(b) Subsection (a) does not apply to a child of the settlor if it appears from the trust or from other evidence that the settlor would not have devised anything to the child had the settlor known that the child was alive.

As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-6

Void, revoked, or lapsed devise

Sec. 6. If a devise of real or personal property, not included in the residuary clause of the trust:

(1) is void;

(2) is revoked; or

(3) lapses;

the devise becomes a part of the residue and passes to the residuary beneficiary.

As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-7

Beneficiary predeceases settlor

Sec. 7. (a) As used in this section, "descendant" includes the following:

(1) A child adopted before the child is twenty-one (21) years of age by:

(A) the settlor; or

(B) the settlor's descendants.

(2) A descendant of a child adopted as set forth in subdivision (1).

(3) A child who is born of the mother out of wedlock in either of the following circumstances:

(A) The mother is a descendant of the settlor.

- (B) The mother is the settlor.
 - (4) If the right of a child born out of wedlock to inherit from the father is or has been established in the manner provided under IC 29-1-2-7, the child, in either of the following circumstances:
 - (A) The father is a descendant of the settlor.
 - (B) The father is the settlor.
 - (5) A descendant of a child born out of wedlock as set forth in subdivisions (3) and (4).
 - (b) If:
 - (1) an estate, real or personal, is devised to a descendant of the settlor; and
 - (2) the beneficiary:
 - (A) dies during the lifetime of the settlor before or after the execution of the trust; and
 - (B) leaves a descendant who survives the settlor;
- the devise does not lapse, but the property devised vests in the surviving descendant of the beneficiary as if the beneficiary had survived the settlor and died intestate.

As added by P.L.4-2003, SEC.7.

IC 30-4-2.1-8

Kindred of the half blood

Sec. 8. Kindred of the half blood are entitled to receive the same trust interest that they would have received if they had been of the whole blood.

As added by P.L.4-2003, SEC.7.